

PERSONNEL RULES AND REGULATIONS

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PERSONNEL RULES AND REGULATIONS

Purpose:

The objectives of these rules are to facilitate the delivery of top quality service to the public and to provide for a fair and equitable merit system of personnel management. They implement the Personnel Ordinance by setting forth in detail those procedures that ensure comparable treatment for those who compete for employment and promotion. In addition, in the absence of an applicable provision in a Memorandum of Understanding (MOU) between the City and an exclusively recognized employee organization, these rules define the obligations, rights, privileges, benefits, and prohibitions placed upon all employees in the classified service.

These rules are supplemented by City Council policies, City Manager Administrative Orders, and Department Directives. The City Manager, as the City's personnel officer, is responsible for administering and interpreting these rules and supplemental policies, orders, and directives in a manner consistent with applicable local, state, and federal law.

I. PURPOSE AND DEFINITIONS

1.1 Definitions:

The following terms when in these rules mean the following:

- 1.1.1 *"Advancement"* means a salary increase of one or more steps within the limits of the pay range established for a classification.
- 1.1.2 *"Allocation"* means the assignment of a position to a classification and pay range based on the duties, responsibilities, and discretion of the position.
- 1.1.3 *"Appointing Authority"* means the City Manager and other employees of the City who have designated power under the Carlsbad Municipal Code to appoint, discipline, and discharge employees.
- 1.1.4 *"City Manager"* means the City Manager or duly authorized representatives. To aid in administration, duly authorized representatives, such as the Human Resources Director, have been identified where appropriate throughout these rules. The identification of a duly authorized representative in these rules does not preclude the City Manager from authorizing different or additional representatives when the City Manager determines it is necessary to do so in order to accomplish the purposes of these rules.
- 1.1.5 *"Classification"* means all positions sufficiently similar in duties, authorities and responsibilities to permit grouping under a common title and the application of common standards of selection, transfer, promotion, and pay.

- 1.1.6 *"Classified Service"* means all positions and employees except those excluded by Chapter 2.44, section 2.44.030, of the Carlsbad Municipal Code.
- 1.1.7 *"Demotion"* means the movement of an employee from one classification to another classification having a lower maximum rate of pay.
- 1.1.8 *"Department"* means an office, department or institution of the City.
- 1.1.9 *"Department Head"* means the chief executive officer of a department.
- 1.1.10 *"Eligible"* means a person whose name is on an employment list.
- 1.1.11 *"Employment List"* means a list of names of persons who have taken an examination for a classification and have qualified for employment in that classification.
- 1.1.12 *"Examination"* means an examination for a particular classification.
- 1.1.13 *"Hourly Employee"* means an employee who does not hold a budgeted/authorized position and who works less than 1,000 hours in any one fiscal year. Hourly employees are not included in the classified service.
- 1.1.14 *"Limited Term Employee"* means a regular employee who has been retained in the classified service who has successfully completed probation and has been retained for a defined period of time.
- 1.1.15 *"Limited Term Position"* means a position authorized by the City Council and anticipated to last for a defined period of time.
- 1.1.16 *"Merit Service"* means all positions and employees except those excluded by Chapter 2.44, section 2.44.030, of the Carlsbad Municipal Code.
- 1.1.17 *"Personnel Ordinance"* means Chapter 2.44 of the Carlsbad Municipal Code.
- 1.1.18 *"Probationary Period"* means a working test period during which an employee is required to demonstrate fitness for the duties to which the employee is appointed by actual performance of the duties of the position in a manner acceptable to the appointing authority.
- 1.1.19 *"Promotion"* means the movement of an employee from one classification to another classification having a higher maximum rate of pay.
- 1.1.20 *"Provisional Appointment"* means the appointment of a person holding a regular position that possesses the minimum qualifications established for a particular classification and who has been temporarily appointed to a position in that classification in the absence of available eligibles.

- 1.1.21 *"Reallocation"* means movement of an existing classification and/or position from one pay range to another. Budgeted reallocations or reallocations with no fiscal impact may be authorized by the City Manager. All other reallocations must be authorized by the City Council.
- 1.1.22 *"Reclassification"* means a change in the allocation of a position by placing it in a higher existing classification, a lower existing classification, or a comparable existing classification based on substantial changes in the kind, difficulty, and/or scope of duties performed in the position. Budgeted reclassifications or reclassifications with no fiscal impact may be authorized by the City Manager. All other reclassifications must be authorized by the City Council.
- 1.1.23 *"Reduced-Time Regular Employee"* means a regular employee who works less than full-time.
- 1.1.24 *"Reduction in Pay"* means a salary decrease within the limits of the pay range established for a classification.
- 1.1.25 *"Regular Employee"* means an employee in the classified service who has successfully completed probation and has been retained as provided for in these rules.
- 1.1.26 *"Regular Position"* means a position authorized by the City Council and anticipated to last for an indefinite period of time.
- 1.1.27 *"Reinstatement"*: means the reemployment without examination of a former regular or probationary employee.
- 1.1.28 *"Rejection"* means the separation of an employee from the service during the employee's probationary period.
- 1.1.29 *"Suspension"* means the temporary separation from the service of an employee without pay, for disciplinary purposes.
- 1.1.30 *"Temporary Position"* means a full-time or part-time position of limited duration that has been authorized by the City Council. Temporary positions are not included in the classified service.
- 1.1.31 *"Transfer"* means a change of an employee from one position to another position in the same classification or another classification having essentially the same maximum salary limits, involving the performance of similar duties and requiring substantially the same basic qualifications.

2. GENERAL PROVISIONS

2.1 Fair Employment. The City is committed to maintaining a respectful workplace and to providing equal employment opportunity to all applicants and employees regardless of race, sex, religious creed, color, national origin or ancestry, physical or mental disability, medical condition, marital status, veteran's status, age, or sexual orientation. For additional information, refer to Administrative Order No. 45.

2.2 Political Activity. The political activities of City employees must conform to the pertinent provisions of state law.

2.3 Meet and Confer. The City Manager will negotiate those matters which are subject to the “meet and confer” process as specified in Government Code sections 3500 et seq. (also known as the Meyers-Milias-Brown Act or the MMBA). For additional information, refer to Chapter 2.48 of the Carlsbad Municipal Code and the City’s Employer-Employee Relations Rules and Regulations.

2.4 Violation of Rules. Violation of the provisions of these rules will be grounds for suspension, reduction in pay, demotion, rejection, and dismissal, or other disciplinary action.

2.5 Amendment and Revision of Rules. Recommendations for amendments and revisions of these rules may be made by the City Manager. The City Council will consider the proposed amendments and revisions at a duly noticed public meeting. Prior to the City Council’s consideration of the proposed amendments and revisions, the City Manager will provide affected employee organizations with written notice of the proposed amendments and revisions and an opportunity to meet and confer (or, where applicable, meet and consult) as to those matters that are within the scope of representation as defined by the Meyers-Milias-Brown Act. Amendments and revisions will become effective upon their adoption by the City Council.

3. CLASSIFICATION

3.1 Preparation of Classification Plan. All regular positions in the classified service will be grouped into classifications and designated salary ranges by resolution of the City Council. Each classification will include those positions sufficiently similar in duties and responsibilities to require similar standards of education, experience, knowledge, skills, and abilities. The Human Resources Director will be responsible for preparing and maintaining classification specifications for all positions. The specifications will include, without limitation, a list of typical duties, and a statement of the minimum qualifications required for appointment. All classification specifications will describe duties which employees occupying positions in the classification may be required to perform and will also include a statement that employees are not precluded from being assigned other duties that are not listed on the classification specification. Classification specifications are illustrative rather than exhaustive. The listing of particular tasks does not preclude the assignment of other tasks of related kind or character, or requiring lesser skills.

3.2 Adoption of Classification Plan. Before the classification plan or any part of it will become effective, it must first be approved in whole or in part by resolution of the City Council at a public meeting. Prior to submission of the classification plan to the City Council for consideration, the City Manager will provide affected employee organizations with written notice of the plan components and an opportunity to meet and confer (or, where applicable, meet and consult) as to those matters that are within the scope of representation as defined by the MMBA. Upon adoption by the City Council, by resolution, the

provisions of the classification plan will be observed in the handling of applicable personnel actions and activities.

3.3 Administration and Maintenance of Classification Plan. The City Manager will be responsible for administration and maintenance of the classification plan. Periodically, the City Manager will review the classification plan to ensure that it accurately reflects the duties and responsibilities of the positions covered by it. The City Manager is authorized to make any amendments or revisions to the classification plan that are budgeted or will not result in a fiscal impact. All other amendments or revisions must be submitted to the City Council for approval in the same manner described in section 3.2 above.

3.4 New Classifications. When a new classification is created, no person may be appointed to fill a position in that classification until the classification plan has been amended to include it. After the classification has been included in the classification plan, positions in the classification will be filled in accordance with these rules.

3.5 Reclassification. Positions, the duties of which have changed materially so as to necessitate a reclassification, will be allocated to a more appropriate classification, whether new or existing. An employee in a position that is reclassified may be directly appointed to the reclassified position if the City Manager determines that the employee is currently satisfactorily performing a substantial amount of the duties and responsibilities of the reclassified position and meets the minimum qualifications for the position. Reclassification may not be used for the purpose of avoiding limitations surrounding demotions and promotions.

4. **PAY AND BENEFITS**

4.1 Preparation of Pay Plan. The Human Resources Director will prepare a pay plan covering all classifications in the classified service, showing the minimum and maximum rates of pay. In determining the pay ranges, the Human Resources Director will consider the prevailing rates of pay for comparable work in other public agencies and in private employment as well as the existing differences in the duties and responsibilities as set forth in the classification plan. No position may be assigned a rate of pay higher than the maximum or lower than the minimum rate of pay provided for that position's classification.

4.2 Adoption of Plan. The Human Resources Director will submit the proposed pay plan to the City Council for approval and adoption. After the pay plan has been approved and adopted, the Human Resources Director will periodically conduct further studies to determine if the pay ranges in the pay plan remain appropriate. If the studies indicate that an amendment to the pay plan is necessary, the Human Resources Director will submit the amended pay plan to the City Council for approval and adoption. The Council will adopt or amend and adopt the proposed plan.

4.3 Application of Rates.

4.3.1 Employees occupying a position in the classified service will be paid at a rate within the pay range established in the pay plan for that position's classification. Newly hired employees will be started at the minimum

rate of pay for their position's classification unless the City Manager determines that qualified applicants are not available at the minimum rate of pay or that an applicant has special qualifications that justify a higher rate of pay.

4.3.2 A transfer will not affect an employee's rate of pay.

4.3.3 Employees reemployed after layoff will receive a rate of pay within the pay range established for the classification of the position in which they are reemployed.

4.4 Advancement Within a Pay Range. Employees will be considered for pay adjustments within the pay ranges for their respective positions in accordance with the following schedule:

- (a) Step B – at the satisfactory completion of the probationary period in Step A.
- (b) Step C – at the satisfactory completion of one year of service in Step B.
- (c) Step D – at the satisfactory completion of one year of service in Step C.
- (d) Step E – at the satisfactory completion of one year of service in Step D.

Advancements to Step B through E will be approved by the City Manager following approval by the Human Resources Director and the employee's manager. Any non-probationary employee may be advanced to the next higher step in the pay range regardless of the length of time served at the employee's present step. This advancement requires the written recommendation of the employee's manager and the approval of the employee's department head and the City Manager.

4.5 Promotion or Advancement in Rate of Pay. When an employee is promoted, the employee will be advanced to the lowest step in the higher range which will provide at least one step increase in pay, except that the employee cannot be advanced beyond the highest step in the higher pay range.

4.6 Out of Classification Compensation. Fire safety employees are authorized out of classification compensation of a minimum of five percent (5%) above a member's existing salary for each occasion the member is employed out of classification; such compensation to commence following the first four hours of employment out of classification. Assignment of employees to out of classification service will be at the sole discretion of the Fire Chief. Other classified employees out of classification compensation, if applicable, will be governed by the employee's MOU.

4.7 Deferred Compensation. The City will provide for a Deferred Compensation Plan in which the employees will have the option to participate. The City reserves the right to accept or reject any particular plan administrator or plan feature and to impose specific conditions upon participation in the plan. Benefits under such plans will be determined through the meet and confer process and memorialized in the applicable Memoranda of Understanding.

4.8 Compensation Procedure All employees will submit a time sheet listing the total number of normal and approved overtime hours worked at the end of each pay period to their supervisor. The time sheet will indicate any absences and type or designation of absence. Absences, suspensions, etc., for

which no payment has been authorized will be deducted from the normal biweekly salary on the basis of 26 pay periods per year. Similarly, salary for working periods of less than normal, as in the case of new employees, terminated employees, leaves of absence without pay, etc., will be computed on the basis of the biweekly or hourly rate less the number of working days of absence.

5. APPLICATIONS AND APPLICANTS

5.1 Announcements. All examinations for classifications in the classified service will be publicized by posting announcements on official bulletin boards and by any other methods the Human Resources Director deems advisable. The announcements will specify the title and pay of the classification for which the examination is announced; the nature of the work to be performed; the qualifications for the performance of the work of the classification; the manner of applying; and other pertinent information.

5.2 Application Forms. Applications must be made on forms provided by the Human Resources Department. The forms will require the applicants to provide information regarding their training and experience as well as other pertinent information.

5.3 Disqualification. The Human Resources Director will reject any application that contains false or misleading statements, that indicates the applicant does not possess the qualifications required for the position, or that indicates the applicant is not authorized to work in the United States. Applications may also be rejected for other reasons permitted by local, state, and/or federal law.

6. EXAMINATIONS

6.1 General Nature and Types of Examinations. The following three types of examinations may be used by the City to establish employment lists:

6.1.1 Open-Competitive Examination, which is an examination for a particular classification that is open to all persons meeting the prerequisites for the classification.

6.1.2 Continuous Examination, which is an open-competitive examination that is open continuously, allowing new individuals to be added to an applicable employment list on an ongoing basis.

6.1.3 Promotion Examination, which is an examination for a particular classification that is open only to current regular or probationary employees who meet the prerequisites for the classification.

Examinations of ability to perform job related duties may include oral, written, performance, physical/mental fitness, and training/experience evaluations. In addition, evaluations of past work performance, work samples, personal interviews, and background investigations may be used in the examination process. Examinations will be based on merit and designed to provide equal opportunity to all applicants by being based on an analysis of the essential job-related requirements for the classification and covering only factors relating to these requirements.

6.2 Conduct of Examination. Based on the needs of the service, the Human Resources Director will determine when and what type of examination will be conducted, whether open-competitive, continuous, or promotional. The Human Resources Director is also responsible for administering the examination process, including determining the method and manner of conducting examinations.

6.3 Scoring Examinations and Rating Applicants. A candidate's eligibility will be determined based on all elements of the examination process. Upon completion of the examination process, candidates will be rated as either "highly qualified," "qualified," "satisfactory," or "unsatisfactory." Candidates rated as "unsatisfactory" will not be placed on the employment list for the classification for which the examination was conducted.

6.4 Notification of Examination Results and Review of Papers. Applicants taking an examination, if successful, will be given written confirmation of their eligibility. Applicants will have the opportunity to inspect their own examination papers within five (5) business days after the notices of examination results are mailed. Any error in computation, if called to the attention of the Human Resources Director within this period and confirmed, will be corrected. The correction will not, however, invalidate any appointments previously made.

7. EMPLOYMENT LISTS

7.1 Employment Lists. As soon as possible after the completion of an examination, the Human Resources Director will prepare and keep available an employment list consisting of the names of applicants who qualified in the examination. The final examination result will be determined by the total of the scores received by each applicant during the examination process, based upon the relative value assigned to each part of the examination before the examination is given.

There are two types of employment lists:

7.1.1 An open-competitive list, which is a list of names of persons who have taken an open-competitive or continuous examination for a classification and are eligible for employment in that classification because they received a rating of "highly qualified," "qualified," or "satisfactory" during the examination process.

7.1.2 A promotional employment list, which is a list of names of employees who have taken a promotional examination for a classification and are eligible for promotion or transfer to that classification because they received a rating of "highly qualified," "qualified," or "satisfactory" during the examination process.

7.2 Duration of Lists.

7.2.1 Promotional employment lists will remain in effect for one year, unless sooner exhausted. The Human Resources Director may extend the duration of the list for up to one (1) additional year.

7.2.2 Open-employment lists, except those for which the City conducts continuous examinations, will remain in effect for up to one (1) year, unless sooner exhausted.

7.2.3 In the case of open employment lists for classifications for which the City conducts continuous examinations, new names will be merged with existing names according to rating band and eligible candidates will remain on the list for not more than one (1) year.

7.3 Reemployment Lists. The names of probationary and regular employees who have been laid off will be placed on appropriate reemployment lists in the order of their seniority. The names will remain on the lists for one (1) year, unless they are reemployed before then. When a reemployment list is to be used to fill vacancies, the Human Resources Director will certify from the top of the list the number of names equal to the number of vacancies to be filled, and the appointing authority will appoint these persons to fill the vacancies.

7.4 Removal of Names From List. The name of any person appearing on an employment, reemployment, or promotional list will be removed by the Human Resources Director if the person requests removal, if the person fails to respond to a notice mailed to the person's last known address, or for any other reason permitted by these rules or by local, state, or federal law. In the latter instance, the person will be notified of the removal by a notice mailed to the person's last known address. The names of persons on promotional employment lists who resign from the classified service will automatically be dropped from these lists.

8. METHOD OF FILLING VACANCIES

8.1 Types of Appointment. All vacancies in the classified service will be filled by reemployment, transfer, demotion, or from eligibles certified by the Human Resources Director from an appropriate employment or promotional list. In the absence of persons eligible for appointment in these ways, provisional appointments may be permitted in accordance with the Personnel Ordinance and these rules.

8.2 Notice to Human Resources Director. Whenever a vacancy in the classified service is to be filled, the appointing authority will notify the Human Resources Director. The Human Resources Director will advise the appointing authority as to the availability of employees for reemployment, requested transfers, or demotion, and of eligibles on employment or promotional lists for the classification.

8.3 Certification of Eligibles. The appointing authority will indicate their desire to fill the vacancy by reemployment, transfer, or demotion, or from a promotional or employment list. If appointment is to be made from an employment or promotional list, the names of all persons eligible for appointment will be certified.

8.4 Order of Certification. Whenever certification is to be made, the employment lists, if each exists, will be used in the following order: reemployment list, promotional list, open-competitive list. Whenever there are fewer than three names on a promotional list or an open-competitive list, the appointing authority may make an appointment from among these eligibles or may request that the Human Resources Director hold a new examination and establish a new employment list.

8.5 Appointment. After interview and investigation, the appointing authority will make appointments from among those certified and will immediately notify the Human Resources Director of the person or persons appointed. The Human Resources Director will then notify the person appointed. If the person accepts the appointment and appears for duty within the time specified by the appointing authority, the person will be considered appointed; otherwise, the person will be considered to have declined the appointment.

8.6 Provisional Appointments. In the absence of appropriate employment lists, a provisional appointment of a person meeting the minimum training and experience qualifications for the position may be made by the appointing authority. An employment list will be established within six months for any regular position filled by provisional appointment. The City Manager may extend the period for any provisional appointment up to thirty days at a time, not to exceed an additional three months. No credit will be allowed in meeting any qualification or in the giving of any test or the establishment of any employment or promotional lists, for service rendered under a provisional appointment.

8.7 Emergency Appointments. To meet the immediate requirements of an emergency condition or natural disaster, such as extraordinary fire, flood, or earthquake, which threatens public life or property, the City Manager or a designee may employ such persons as may be needed for the duration of the emergency without regard to the Personnel Ordinance or rules affecting appointments. As soon as possible, the appointments must be reported to the Human Resources Director. Emergency appointments end when the emergency ends. Consequently, persons who are given emergency appointments are not in the classified service.

9. PROBATIONARY PERIOD

9.1 Regular Appointment Following Probationary Period. All original appointments in the classified service will be subject to a probationary period of not less than one year of actual service. All promotional appointments will be subject to a probationary period of not less than six months of actual service, excepting police and fire safety employees. Promotional probation for police and fire safety employees will be one year. For police officers, the probationary period commences on the date they are sworn in as officers. For all other employees, the probationary period commences on the first day of assignment to their position. An unpaid leave of absence during the probationary period lengthens the probationary period by the number of calendar days of the leave of absence.

9.2 Objective of Probationary Period. The probationary period will be regarded as a part of the examination process and will be utilized for closely observing the employee's work performance, for securing the most effective adjustment of a new employee to the position, and for rejecting any probationary employee whose performance does not meet the required standards of work.

9.3 Retention of Probationary Employee. If the performance of the probationary employee has been satisfactory, the appointing authority will file a written authorization with the Human Resources Director to retain the employee and change the employee's status from probationary to regular. If an

authorization is not filed, the employee's performance will be deemed satisfactory and the employee's status will change from probationary to regular on the employee's anniversary date.

9.4 Rejection of Probationary Employee. Any time during the probationary period, an employee may be rejected by the appointing authority without cause and without the right of appeal. Notification of rejection in writing will be given to the probationary employee and a copy filed with the Human Resources Director.

9.5 Rejection Following Promotion. Any employee rejected during the probationary period following a promotional appointment will be reinstated to the position from which the employee was promoted unless charges are filed and the employee is discharged for cause in the manner provided in the Personnel Ordinance and these rules for positions in the classified service.

10. ATTENDANCE AND LEAVES

10.1. Annual Vacation Leave. The purpose of vacation is to enable each eligible employee to take time off from work and return to work mentally refreshed. All probationary and regular City employees in the classified service will be entitled to take accrued vacation with pay except employees who have served less than six months in the service of the City. Vacation accrual rates for eligible employees will be determined through the meet and confer process and memorialized in the applicable Memoranda of Understanding.

10.2. Determination of Vacation Benefits. Employees who work less than full time, but more than one thousand (1,000) hours a year, will be credited vacation on a prorated basis. For the purposes of computing vacation accrual, employment is considered to have commenced on the first day of assignment to a position. The times during a calendar year at which an employee may take vacation will be determined by the department head with due regard for the wishes of the employee and particular regard for the needs of the service. Regular employees who terminate employment will be paid for all vacation accrued prior to the effective date of termination not to exceed the maximum accrual amount as specified in the employee's MOU. Termination of employment terminates continuity of service for vacation benefits.

10.3 Compensatory Time Off. Any employee in the classified service may request compensatory time off for overtime worked at a rate of one and one half the overtime hours worked. Accrual and use of compensatory time off in lieu of overtime pay will be determined in accordance with the provisions of the applicable Memoranda of Understanding.

10.4 Sick Leave. Sick Leave will be governed by the provisions below unless otherwise determined through the meet and confer process and memorialized in the applicable Memoranda of Understanding.

10.4.1 All probationary and regular employees in the classified service will accrue sick leave on a biweekly basis at the rate of eight (8) hours for each continuous calendar month of service. Reduced-time probationary and regular employees will accrue sick leave on a prorated basis. Accrued, unused sick leave may be carried over to succeeding years, but will not be paid out when an employee's employment with the City ends.

10.4.2 Employees may use sick leave: (1) to recuperate from or receive treatment for their own injuries or illnesses; (2) to care for an injured or ill family member; or (3) to attend the employee's own or a family member's medical, dental, or optometry appointment.

For the purpose of these rules, the term "family member" includes a spouse, domestic partner, child, sibling, parent, or grandparent whether biological, foster, step, adopted, or in-law. It also includes any person who has served in place of a parent to the employee, or any person for whom the employee has served in place of a parent. The term "child" means a biological, foster, or adopted child, a stepchild, a legal ward, a child of a domestic partner, or a child of a person standing in loco parentis. The term "parent" means a biological, foster, or adoptive parent, a stepparent, or a legal guardian.

10.4.3 Any employee who is absent because of a personal injury or illness or the injury or illness of a family member must notify the employee's supervisor as early as practicable on the first day of the absence, or as soon thereafter as possible. An employee who needs to be absent to attend a medical, dental, or optometry appointment must have the absence approved in advance by the employee's supervisor.

10.4.4 When the period of absence is for three consecutive workdays or less, the City may accept the employee's justification as to the reason for absence. If an absence is for more than three consecutive workdays and/or if it is covered by workers' compensation, the pregnancy disability provisions of the California Fair Employment and Housing Act, the California Family Rights Act, or the federal Family and Medical Leave Act, the City may require the employee to provide medical certification supporting the need for the absence.

10.4.5 Time off to take a physical examination for induction into or recall to active duty with the Armed Forces will be handled in accordance with applicable state and federal law.

10.4.6 An employee making a blood donation without being paid a fee will be given a reasonable time off for that purpose. No charge will be made against the employee's sick leave or vacation when the absence is approved in advance by the employee's supervisor.

10.4.7 Holidays occurring during sick leave will not be counted as sick leave. Sick leave may not be used for vacation, nor compensated for in cash, except as provided in section 10.6 below.

Notwithstanding anything in this section to the contrary, local safety employees are not entitled to sick leave for any job related illness, injury or other occurrence which entitles the employee to benefits under section 4850 of the Labor Code (hereinafter '4850 benefits'). The City Manager may authorize use of sick leave after 4850 benefits are exhausted for job related illness or injury if he/she determines that:

- (a) The injury is not permanent and stationary.
- (b) The use of sick leave will not extend the effective date of the employee's retirement.

(c) The employee is disabled from the performance of his/her duties and there is a reasonable probability he/she may return to work within a reasonable amount of time.

10.5 Occupational Injuries or Illnesses.

10.5.1 A regular employee who is not covered by Section 4850 of the Labor Code and who is temporarily unable to work due to an occupational injury or illness will receive full pay for the number of calendar days as designated in the applicable Memoranda of Understanding. If the employee continues to be temporarily unable to work after the designated number of days, the employee will receive workers' compensation temporary disability payments as provided in the Labor Code. To the extent that these benefits are less than the employee's full regular pay, the employee must supplement them by using accrued sick leave, vacation, and/or compensatory time to reach the amount equal to the employee's full regular pay until the employee's leave balances reach zero, at which time the employee would commence an unpaid leave of absence.

10.5.2 A regular employee who is covered by Section 4850 of the Labor Code and who is temporarily unable to work due to an occupational injury or illness will receive full pay for up to one year as provided in that section ("4850 benefits"). The employee may not receive 4850 benefits concurrently with sick leave or any other form of paid time off.

If the employee continues to be unable to work after the employee's 4850 benefits have been exhausted and the employee has not retired, the employee will receive workers' compensation temporary disability benefits as provided in the Labor Code. To the extent these benefits are less than the employee's full regular pay, the employee must supplement them by using accrued sick leave, vacation, and/or compensatory time to reach the amount equal to the employee's full regular pay until the employee's leave balances reach zero, at which time the employee would commence an unpaid leave of absence.

10.5.3 Nothing in this section precludes the City from taking appropriate action in the event of abuse of sick leave.

10.6 Sick Leave Conversion.

10.6.1 During the first pay period of each fiscal year, any regular employee may convert sick leave time to vacation as determined through the meet and confer process and memorialized in the applicable Memoranda of Understanding.

10.6.2 Any regular employee applying for retirement with the Public Employees' Retirement System may convert accrued and unused sick leave to service time at the rate specified in California Government Code section 20965.

10.7 Military Leave of Absence. Unless as otherwise provided for in local, state or federal law, military leave of absence will be governed by the provisions set forth below.

10.7.1 An employee who is a member of the reserve corps of the Armed Forces of the United States or of the National Guard or the Naval Militia and who is ordered to military duty for active military training, inactive duty

training, encampment, naval cruises, special exercises, or similar activities will be granted a temporary military leave of absence for the period of ordered duty, including the time going to and returning from that duty as provided for by state and federal law.

10.7.2 An employee who has been in the service of City for at least one year prior to the commencement of a leave of absence for inactive duty training will receive full pay for the first fifteen (15) calendar days of the leave.

10.7.3 An employee who has been in the service of City for at least one year prior to the commencement of a leave of absence for other than inactive duty training will receive full pay for the first thirty (30) calendar days of the leave.

10.7.4 Notwithstanding sections 10.7.2 and 10.7.3 above, an employee will not be paid for more than thirty (30) days of military leave in any one (1) fiscal year.

10.7.5 For purposes of this section, in determining whether an employee has been in the service of the City for at least one year, all service by an employee in the Armed Forces of the United States or of the National Guard or the Naval Militia that occurs during employment with the City will be counted as City service.

10.8 Jury Duty. An employee who is called for jury duty will be granted a leave of absence during the period of jury service. The City will continue to pay employees their regular rates of pay during the leaves.

10.9 Leaves of Absence for Injuries or Illnesses. Upon written request, the City Manager may grant a regular employee a leave of absence. If approved, a copy of the request and the approval will be filed with the Human Resources Department.

10.9.1 Occupational Injuries or Illnesses.

10.9.1.1 A regular employee who is covered by Section 4850 of the Labor Code and who is temporarily unable to work due to an occupational injury or illness will receive full pay for up to one year as provided in that section ("4850 benefits"). The employee may not receive 4850 benefits concurrently with sick leave or any other form of paid time off.

If the employee continues to be unable to work after the employee's 4850 benefits have been exhausted and the employee has not retired, the employee will receive workers' compensation temporary disability benefits as provided in the Labor Code. To the extent these benefits are less than the employee's full regular pay, the employee must supplement them by using accrued sick leave, vacation, and/or compensatory time to reach the amount equal to the employee's full regular pay until the employee's leave balances reach zero, at which time the employee would commence an unpaid leave of absence.

10.9.1.2 A regular employee who is not covered by Section 4850 of the Labor Code and who is temporarily unable to work due to an occupational injury or illness will receive full pay for the number of calendar days as designated in the applicable Memoranda of Understanding. If the employee continues to be temporarily unable to work after the designated number of days,

the employee will receive workers' compensation temporary disability payments as provided in the Labor Code. To the extent that these benefits are less than the employee's full regular pay, the employee must supplement them by using accrued sick leave, vacation, and/or compensatory time to reach the amount equal to the employee's full regular pay until the employee's leave balances reach zero, at which time the employee would commence an unpaid leave of absence.

10.9.2 Non-Occupational Injuries or Illnesses.

10.9.2.1 A regular employee who is temporarily unable to work due to a non-occupational illness or injury will receive those disability benefit payments for which the employee is eligible and applies. To the extent that these benefits are less than the employee's full regular pay, the employee must supplement them by using accrued sick leave, vacation, and/or compensatory time to reach the amount equal to the employee's full regular pay until the employee's leave balances reach zero, at which time the employee would commence an unpaid leave of absence.

10.9.2.2 Leaves of absence for pregnancy-related disabilities will be handled in the same manner as leaves of absence for non-occupational injuries or illnesses, subject to the pregnancy disability provisions of the California Fair Employment and Housing Act.

10.9.3 Bereavement Leave. In the event of the death of an employee's family member, Bereavement Leave for eligible employees will be determined through the meet and confer process and memorialized in the applicable Memoranda of Understanding. An employee who is absent because of the death of a family member must notify the employee's supervisor as soon as possible on the first day of the absence.

For the purpose of this section, the term "family member" includes a spouse, domestic partner, child, sibling, parent, or grandparent whether biological, foster, step, adopted, or in-law. It also includes any person who has served in place of a parent to the employee, or any person for whom the employee has served in place of a parent. The term "child" means a biological, foster, or adopted child, a stepchild, a legal ward, a child of a domestic partner, or a child of a person standing in loco parentis. The term "parent" means a biological, foster, or adoptive parent, a stepparent, or a legal guardian.

10.9.4 Unpaid Leave of Absence.

10.9.4.1 Prior to commencing an unpaid leave of absence, the employee must exhaust all accrued vacation and compensatory time and, if applicable, all accrued sick leave. Once the employee has been on an unpaid leave of absence for two full pay periods, the employee will cease accruing sick leave and vacation. In addition, the employee's vacation anniversary date and salary anniversary date will be extended for each calendar day the unpaid leave of absence extends beyond the first two full pay periods unless otherwise prohibited by law. Accruals of sick leave and vacation will resume on the first day of the first full pay period after the employee has returned to work.

10.9.4.2 To the extent permitted by law, upon notice to the employee by the City, a leave of absence under this article will run

concurrently with any leave of absence an employee is entitled to receive under the California Family Rights Act or the federal Family and Medical Leave Act.

10.9.4.3 Failure of an employee to promptly return to work at the conclusion of an unpaid leave of absence, or within a reasonable time after notice to return to duty, will be cause for discharge.

10.10 Hours of Operation. The City will determine the hours of operation and appropriate staffing levels necessary to achieve its mission, vision, values, goals and objectives. The hours of operations and staffing levels may vary by facility, major service area, and/or department.

10.11 Other Employment. No City employee is permitted to have outside employment that is inconsistent or incompatible with City employment. An employee who desires to have outside employment must first obtain written approval from the employee's department head and the City Manager on a form provided by the Human Resources Department.

10.12 Attendance. Employees must be in attendance in their work in accordance with the rules regarding hours of work, holidays, and leaves. All departments will keep daily attendance records, which will be reported to the Finance Department in the form and on the dates prescribed by the Finance Department.

10.13 Holidays. Municipal offices will be closed on days designated as holidays by City Council resolution.

When a City Council authorized holiday falls on Sunday, the holiday will be observed on the following Monday. When a City Council authorized holiday falls on Saturday, the holiday will be observed on the preceding Friday. Employees will receive holiday pay in accordance with the provisions of the applicable Memoranda of Understanding.

10.14 Overtime.

10.14.1 Application. Any full-time employee in the classified service renders service beyond the employee's normal work week (or work period, if applicable) will be paid overtime pay for the additional service at one and one-half times the employee's regular hourly rate as determined by the FLSA. Reduced time regular employees will be paid overtime for hours worked in excess of forty (40) in a work week. Overtime pay will be included in the paycheck for the pay period in which the overtime service was performed. Accrual and use of compensatory time off in lieu of overtime pay will be determined in accordance with the provisions of the applicable Memoranda of Understanding.

10.14.2 Administration of Overtime. The smallest unit of time credited as overtime will be one-quarter (1/4) hour for any pay period. Overtime worked that is less than one-quarter (1/4) hour during a pay period will be disregarded and may not be accumulated except for calculating whole hours within the pay period. The department head will report all overtime or compensatory time on Finance Department time and pay records.

11. CHANGES IN EMPLOYMENT STATUS

11.1 Changes in Employment Status. Changes in employment status will be governed by the provisions below unless otherwise provided through the meet

and confer process and memorialized in the applicable Memoranda of Understanding.

11.2 Transfer. After notice to the City Manager and the Human Resources Director, an employee may be transferred by the appointing authority at any time from one position to another position in the same or comparable classification. If the transfer involves a change from one department to another, both departments must consent to the transfer unless the City Manager orders the transfer for purposes of economy or efficiency. A transfer may not be used to effectuate a promotion, demotion, advancement, discipline, or a reduction in pay, each of which may be accomplished only as provided in the Personnel Ordinance and in these rules or the applicable Memoranda of Understanding. No person will be transferred to a position for which the person does not possess the minimum qualifications.

11.3 Promotion. Insofar as practicable and consistent with the best interest of the service, all vacancies in the classified service will be filled by promotion from within after a promotional examination has been given and a promotional list established. If, in the opinion of the appointing authority, the needs of the City require it, a vacancy may be filled by open-competitive examination instead of a closed promotional examination.

11.4 Demotion. The appointing authority may demote an employee whose ability to perform required duties falls below standard, for disciplinary purposes, or in lieu of layoff. In addition, demotion to a vacant position may be made at an employee's request, with the consent of the prospective supervisor. No employee will be demoted to a position for which the employee does not possess the minimum qualifications. Written notice of the demotion will be given to the employee before the effective date of demotion, and a copy of the notice will be filed with the Human Resources Director.

11.5 Suspension. The appointing authority may suspend an employee without pay, or reduce the pay of an employee in lieu of a suspension without pay, for discipline or for other just cause. Suspension without pay may not exceed thirty (30) days in any instance. A suspension without pay, or a reduction in pay in lieu of a suspension without pay, must be reported immediately to the Human Resources Director by the appointing authority.

11.6 Reinstatement. With the approval of the appointing authority, an employee who has resigned with a good record may be reinstated within two years to a vacant position in the same or comparable classification. Upon reinstatement, the employee will, for all purposes be considered as an original appointee.

11.7 Discharge. The appointing authority may discharge an employee for disciplinary purposes or for other just cause after notifying and consulting with the Human Resources Department.

11.8 Reductions in Force.

11.8.1 Notice to Affected Employees. The appointing authority may lay off an employee in the classified service because of material change in duties or organization or shortage of work and funds. Except as otherwise required by federal or state law applicable to reductions in force, at least ten (10) business days prior to the effective date of a reduction in force, the

appointing authority will notify the Human Resources Director of the intended action and provide a written statement certifying whether or not the services of the employee have been satisfactory. A copy of such notice will be given the employee affected. If certified as having given satisfactory service, the name of the employee laid off will be placed on the appropriate reemployment list as provided by these rules.

11.8.2 Reduction in Force Procedures. The following procedures will apply to all probationary and regular city employees in the event of a reduction in the City work force.

11.8.2.1 Definitions. The following definitions apply to these procedures:

11.8.2.1.1 “City Service Seniority” means the period of total continuous service with the City as measured from the date of original appointment.

11.8.2.1.2 “Classification Seniority” means the period of total continuous service of an employee in the present classification as measured from the date of appointment to that classification.

11.8.3 Reduction in Force – Layoff. Whenever there is a reduction in the force, the City will layoff employees within a classification according to City service seniority. Employees with the least continuous City service within a classification will be laid off first.

11.8.4 Reduction in Force – Demotion. Whenever there is a reduction in force and demotion of employees becomes necessary, the City will determine among those employees scheduled to be laid off, those employees with the greatest length of continuous City service. The employee will be demoted to any classification for which he/she has been determined to be currently qualified and in which a vacancy exists. An employee may refuse to accept a demotion and accept layoff without jeopardizing reemployment rights otherwise provided for in this procedure.

11.8.5 Notification. Except as otherwise required by state or federal law applicable to reductions in force, whenever there is a reduction in force, the City will send written notice to the last known address of each employee affected by a layoff. The notice will include the (1) reason for layoff, (2) classifications to which the employee may demote within the City, if any, (3) effective date of action, (4) conditions governing retention on and reinstatement from reemployment lists, and (5) rules regarding waiver of reinstatement and voluntary withdrawal from reemployment lists.

11.8.6 Determining Length of Seniority. In determining continuous City service seniority, all uninterrupted employment from the employee’s original date of hire, including periods of authorized paid leaves of absence or other authorized leave pursuant to state or federal law, and all periods of time served as a limited term employee, but excluding periods of unauthorized leaves of absence in excess of two pay periods, will be counted as continuous City service seniority.

11.8.7 Order of Reduction in Force. In a reduction in force the following order of layoffs will be followed: (1) part-time, temporary and provisional employees in the affected classification series; (2) limited term

employees in reverse order of their seniority in the affected classification series; (3) City probationary employees in reverse order of their classification seniority in the affected classification series; (4) should there be need for further reduction, regular employees in the affected classification series will be given the opportunity to accept or refuse demotion as previously described in subsection 11.8.4 in reverse order of their classification seniority; (5) should a reduction in force still be necessary, regular employees will be laid off in reverse order of their classification seniority.

11.8.8 Determining Order of Layoff and Demotion for Employees with Identical Seniority. Should two or more employees have identical seniority, the order of layoff and demotion will be determined by lottery.

11.8.9 Transfer. All effort will be made by the City to transfer any employee who is to be affected by a reduction in force to another vacant position for which the employee may qualify.

11.8.10 Order and Method of Demotion Pursuant to a Reduction in Force – Bumping. When required due to a reduction in force, employees will be demoted in the following manner:

11.8.10.1 Employees who are demoted, who have held regular status in a lower classification will have the right to bump employees of lesser City service seniority in that lower classification.

11.8.10.2 Employees who have not actually held status in a lower classification will be allowed to demote to a vacant position or to a position held by a City probationary employee in a lower classification, if qualified for the lower classification, but may not bump regular City employees already in the lower classification.

11.8.11 Reinstatement of Employees Demoted as a Result of a Reduction in Work Force. Employees who are demoted as a result of a reduction in force will have their names placed on a reinstatement list, in the order of their City service seniority. Vacant positions in which an employee has served within a classification series will first be offered to employees on this list.

11.8.12 Reemployment of Employees Laid Off as a Result of a Reduction in Force. Employees who are laid off and who held regular City status at the time of layoff will have their names placed on a reemployment list for classifications at the same or lower salary range for which they qualify in the order of their classification seniority. Vacant positions in the classifications will be offered to eligibles on the reemployment list who qualify for the vacancies prior to an open or promotional recruitment.

11.8.13 Duration of Reinstatement and Reemployment Lists. The eligibility of individuals on the reinstatement and reemployment lists will extend for a period of two (2) years from the date of demotion or layoff. Eligibles not responding to written notification of an opening after ten (10) business days will have their names removed from the lists.

11.8.14 Restoration of Benefits. Upon Reemployment Following, a Reduction in Force. Upon reemployment following a reduction in force, an individual will have the following benefits restored:

- (a) Prior sick leave accruals.

(b) City service seniority at time of layoff for purposes of determining merit or step increases, vacation accruals and future reduction in force.

(c) The rate of pay of an employee who is re-employed will be based on the pay plan in effect at the time of reemployment. If the employee chooses to be reemployed in a classification which has a pay range lower than the classification from which the employee was laid off, then the rate of pay will be at the "E" step in the pay range for the lower classification..

11.8.15 Payoff of Accruals Upon Layoff. Laid off employees are to be paid for all accrued holiday, vacation, compensatory time and overtime when separated as a result of a layoff. The sick leave accruals of the employee will remain on the books and will be reinstated if the employee is reappointed within two years from the date of layoff.

11.8.16 Retirement Contribution. The disposition of the reemployment contributions of a laid off employee will be governed by the provisions of the California Public Employees' Retirement Law (California Government Code sections 20000 et seq.).

11.9 Resignations. An employee wishing to leave the City's service in good standing will submit a written resignation to the appointing authority stating the effective date and reasons for leaving. The resignation should be submitted at least two weeks before leaving the service, unless the time limit is waived by the appointing authority. The resignation will be forwarded to the Human Resources Department. Failure to give notice as set forth by this rule may be cause for denying future employment with the City.

12. GRIEVANCE PROCEDURES

12.1 Purpose. The purposes of the Grievance Procedure of the City of Carlsbad are:

(a) To promote improved employer-employee relations by establishing grievance procedures on matters for which appeal or hearing is not provided by other regulations.

(b) To assure fair and equitable treatment of all employees and promote harmonious relations among employees, supervisors and management.

(c) To encourage the settlement of disagreements informally at the employee-supervisor level and provide an orderly procedure for handling grievances throughout the several supervisory levels where necessary.

(d) To provide that grievance meetings will be conducted as informally as possible.

(e) To resolve grievances as quickly as possible and correct, if possible, the cause of grievances, thereby reducing the number of grievances and future similar complaints.

(f) This grievance procedure is applicable to classified employees in each department of the City of Carlsbad, unless superseded by a Memorandum of Understanding.

12.2 Reviewable and Nonreviewable Grievances.

12.2.1 To be reviewable under this procedure, a grievance must:

(a) Concern matters or incidents that have occurred.
(b) Result from an act or omission by management regarding working conditions or other matters over which the head of the department has control.

(c) Arise out of a specific situation, act or acts considered to be unfair which result in inequity or damage to the employee.

(d) Arise out of an interpretation and application of the Personnel Rules and Regulations or an applicable Memoranda of Understanding.

12.2.2 A grievance is not reviewable under this procedure if:

(a) It is a matter which would require the modification of a policy established by the City Council or by law.

(b) It is reviewable under some other administrative procedure and/or rules of the City of Carlsbad, such as:

(i) Applications for changes in title, job classifications or salary.

(ii) Appeals from formal disciplinary proceedings.

(iii) Appeals from work performance evaluations.

(iv) Items identified in these rules or in an applicable Memoranda of Understanding as nongrievable.

12.3 Special Grievance Procedure Provisions. The following special provisions apply to the grievance procedure.

12.3.1 Procedure for Presentation. In presenting a grievance, an employee must follow the sequence and the procedure outlined in subsection 12.4 below.

12.3.2 Prompt Presentation. The employee will discuss the grievance with an immediate supervisor promptly after (i.e., when the employee knew or should have known) the act or omission of management causing the grievance.

12.3.3 Prescribed Form. The written grievance will be submitted on a form prescribed by the Human Resources Director for this purpose.

12.3.4 Statement of Grievance. The grievance will contain a statement of:

(a) The specific situation, act or acts considered to be unfair and the reasons why.

(b) The inequity or damage suffered by the employee.

(c) The relief sought.

12.3.5 Employee Representative. The employee may choose a representative at any step in the procedure. The person hearing the grievance need not allow more than one employee representative for any step in the grievance process, unless the person hearing the grievance so desires.

12.3.6 Interested Parties. There will be no limit placed upon the number of interested parties who may provide information during the hearing of a grievance at any step of the grievance procedure.

12.3.7 Handled During Working Hours. Whenever possible, grievances will be handled during the regularly scheduled working hours of the parties involved.

12.3.8 Extension of Time. The time limits within which action must be taken or a decision made as specified in this procedure may be extended by mutual written consent of the parties involved. A statement of the duration of the extension of time must be signed by both parties involved at the step to be extended.

12.3.9 Consolidation of Grievances. If the grievance involves a group of employees or if a number of employees file separate grievances on the same matter, the grievances will be handled as a single grievance.

12.3.10 Settlement. Any grievance will be considered settled at the completion of any step if all parties are satisfied or if neither party presents the matter to a higher authority within the prescribed time.

12.3.11 Reprisal. The grievance procedure is intended to assure a grieving employee the right to present a grievance without fear of disciplinary action or reprisal, provided the provisions of the grievance procedure are observed. Copies of grievance forms will not be placed in employee personnel records but will be maintained in separate files in the Human Resources Department.

12.4 Grievance Procedure Steps. The procedural steps for submitting a grievance for consideration and action are set forth in the applicable Memoranda of Understanding.

13. TRAINING AND EDUCATION BENEFITS

13.1 Training and Education

13.1.1 Responsibility for Training. The city encourages training programs for employees. Responsibility for developing training programs for employees will be assumed jointly by the Human Resources Director and department heads. These training programs may include lecture courses, demonstrations, assignments of reading matter, or other available methods for improving the effectiveness and broadening the knowledge of municipal officers and employees in the performance of their respective duties.

13.1.2 Credit for Training. Participation in and successful completion of special training courses may be considered in making advancement and promotions. Evidence of this activity must be filed by the employee with the Human Resources Director.

13.2 Employee Education and Tuition Reimbursement. Employee education and tuition reimbursement will be determined in accordance with Administrative Order 60.

14. REPORTS AND RECORDS

14.1 Roster Cards. The Human Resources Director will maintain a record for each employee in the service of the City showing the name, title of position held, the department to which assigned, salary, changes in employment status, and such other information as may be considered pertinent.

14.2 Change of Status Report. Every appointment, transfer, promotion, demotion, change in status of employees must be reported in writing to the Human Resources Director.

15. RULES OF APPEAL TO HEARING OFFICER

15.1 Right of Appeal. Any employee in the classified service will have the right to appeal to a hearing officer those disciplinary actions and grievance decisions as provided in the applicable Memorandum of Understanding.

15.2 Method of Appeal and Procedures for Personnel Hearings. The method of appeal and the procedures for personnel hearings will be consistent with Administrative Order No. 70 and the applicable Memorandum of Understanding.